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RETURN RECEIPT REQUESTED RETURN RECEIPT REQUESTED

Darsi Foss	Tony Koblinski
Director, Remediation and Redevelopment Program	President and CEO
Wisconsin Department of Natural Resources	Madison-Kipp Corporation
101 S. Webster Street	201 Waubesa Street
PO Box 7921	Madison, Wisconsin 53704
Madison, Wisconsin 53707-7921	

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Re: *Madison-Kipp Corporation, 201 Waubesa Street, Madison, Wisconsin; Status of PCB Site Remediation and State Settlement*

Dear Ms. Foss and Mr. Koblinski:

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~~Thank you for providing Based upon several recent discussions between the U.S. Environmental Protection Agency, Region 5 (EPA) with a copy of the November 27, 2017 Stipulation and Order for Judgment between the State of Wisconsin and the Madison-Kipp Corporation, Madison, Wisconsin (MKC), resolving, under state law, the onsite PCB contamination at MKC's facility located at 201 Waubesa Street, Madison, Wisconsin (the Site). This letter is to update EPA's position with regard to the progress of a resolution of the PCB contamination at the Site and the settlement of the matter, the Wisconsin Department of Natural Resources (WDNR) and the Madison-Kipp Corporation, Madison, Wisconsin (MKC) concerning a potential state law resolution of the onsite PCB contamination at MKC's facility located at 201 Waubesa Street, Madison, Wisconsin (the Site). I am writing to clarify EPA's position with regard to the progress of PCB remediation at the Site and any state settlement of the matter.~~

As you are aware, until recently, EPA was coordinating ~~is overseeing~~ with the Wisconsin Department of Natural Resources (WDNR) ~~WDNR's~~ regarding the state of Wisconsin's resolution solution of PCB contamination at the site under the State of Wisconsin's NR 700 rules pursuant to the November 27, 2006 One Cleanup Program Memorandum of Agreement between the State of Wisconsin and EPA. ~~In addition, per this process, the parties met in Chicago on September 29, 2016, to discuss the limited progress over several years in achieving a final resolution of addressing the PCB contamination at the Site. Subsequent discussions between representatives of EPA, WDNR and MKC concerning several issues raised at that meeting occurred during 2016 and 2017. While not all of the issues were resolved to the satisfaction of the parties, the Agency believes~~

~~EPA's responses to the issues and concerns were timely, definitive and intended to ensure that any remediation actions agreed to by MKC and WDNR at the site were sufficiently protective of human health and the environment. While some progress in reaching a comprehensive resolution was made, several issues of concern to EPA were not have yet to be resolved to the satisfaction of MKC.~~

~~At some point during 2017 Recently, WDNR and MKC independently agreed to proceed with the negotiation of a n-independent resolution of the matter under state law and EPA was not privy to these negotiations. While EPA appreciates the status updates which were recently provided to the Agency over the last few weeks and the Agency supports the parties' efforts to resolve this matter under state law, it appears the state settlement, which does, presumably, will not completely adequately resolve/address, under federal law, several of the the remaining issues which remain of concern to EPA with regard to the PCB contamination at the Site.~~

~~While EPA appreciates the status updates which were recently provided to the Agency over the last few weeks, EPA has will not to be privy to the negotiations between WDNR and MKC, therefore, we are left to speculate as to the final terms and conditions of any agreement between the parties. While this change in approach is not necessarily unusual, it is a change to the prior coordinated process involving all of the parties to the matter, and will necessarily complicate, and possibly extend the time it takes to reach, an acceptable resolution at the Site, as any federal law claims will have to be resolved under a separate process after the state settlement has been finalized. In addition, because EPA is no longer party to the negotiations, the Agency cannot provide the parties with any assurances, at this time, that the EPA will defer to any state resolution at the site. In fact, given the limitations of WDNR's ability to address many requirements of TSCA requirements under Wisconsin state law, it is likely additional federal conditions will be required at the Site.~~

~~All of that said Regardless, EPA has not changed its position that a coordinated approach to resolving the matter would benefit all of the parties and the Agency is willing to work with the parties to reach this goal. In that regard, EPA intends to closely review the any settlement between WDNR and MKC to determine if its terms and conditions are at least as stringent as those required under federal law and to determine whether it is protective of human health and the environment and is willing to discuss it's~~

~~Conclusions with WDNR and MKC prior to initiating any action in this matter. To the extent EPA concerns have not been addressed, any federal law claims will have to be resolved under a separate process. In addition, due to the circumstances of the recent resolution, the Agency cannot provide the parties with any assurances that the EPA will defer to the state resolution at the site. In fact, given the limitations of WDNR's ability to address many requirements of TSCA requirements under Wisconsin law, it may be that additional federal conditions will be required at the Site to address any issue not fully resolved under the state agreement.~~

~~Lastly, please let the record reflect that EPA continues to reserve all of its rights in this matter and that any settlement agreement between WDNR and MKC shall not limit the comprehensive authority of EPA, or the United States, to take, direct or order any and all actions necessary to protect public health or the environment or to prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants~~

or contaminants, or solid waste on, at, or from the Site. Further, nothing in any such agreement shall prevent EPA from seeking any remedy or relief under TSCA, or any other applicable statute or regulation in this matter, nor shall it relieve MKC from compliance with any federal law or regulation or preclude EPA from initiating any enforcement action, including an action seeking civil or criminal penalties, for any violation of any applicable federal law or regulations.

We look forward to working with WDNR and MKC to reach a final resolution under both state and federal requirements that is sufficiently protective of human health and the environment.

Sincerely,

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Michael D. Harris
Acting Director
Land and Chemicals Division
U.S. Environmental Protection Agency, Region 5

cc: Ken Zolnierczyk, LCD, EPA
Mario Mangino, LCD, EPA
Dave Petrovski, LCD, EPA
Peter Ramanauskas, LCD, EPA
Michael Beedle, LCD, EPA
Jennifer Wilson, WD, EPA
Thomas Poy, WD, EPA
John Steketee, ORC, EPA
Michael Schmoller, WDNR
Linda Hanefeld, WDNR
Lacey Cochart, WDNR
Jessica Kramer, WDNR
David Ross, WDOJ

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